

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1308 of 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
13/07/1999 in WP NO : 35287 OF 1997 on the file of the High Court.)

Between:

- 1 APSRTC Rep.by its Managing Director
Mushirabad Hyderabad.
- 2 The Regional Manager APSRTC
Tirupathi Chittoor Dist.
- 3 The Depot Manager APSRTC
Madanapalli-II Depot Chittoor Dist.

..... APPELLANTS

AND

P.Venkata Ramana Mechanicm E.68744 166-B,15th Ward
Kammagadda Street Madanapalli
Chittoor Dist A.P.

.....RESPONDENT

Counsel for the Appellants:MR.A.V.SIVAIAH

Counsel for the Respondent: MR.V.VISWANATHAM

The Court made the following :

JUDGMENT: (Per the Honourable Smt. Justice T.Meenakumari)

Aggrieved by the order of the learned single Judge dated 13.07.1999 in W.P.No.35287/1997 in allowing the said Writ Petition, the present writ appeal has been filed by the respondents-Corporation in the writ petition.

For the sake of convenience, the parties will be referred to as workman and Corporation.

The workman was appointed as mechanic on 11.11.1976 as he was displaced employment, having worked under the private operators as a result of nationalization of private bus routes. It is the case of the workman that he is an uneducated and therefore he does not have any proof as regards his date of birth and he was sent to the Medical Officer, A.P.S.R.T.C. Dispensary who certified that the workman was aged about 25 years and the date of birth of the workman was fixed as 11.11.1951 and the same was registered in the records of the Corporation. However, by proceedings dated 22.07.1997 the third appellant herein issued an advance notice to the workman with reference to his date of birth wherein the date of birth of the workman was mentioned as 01.01.1940 and hence he has to retire on 31.12.1997 i.e. on attaining the age of 58 years. Questioning the said proceedings, the workman filed the said writ petition stating that his age is assessed and recorded in terms of Regulation 19(2)b) of the A.P.State Road Transport Corporation Service Regulations and when once the age of the workman is assessed in terms of the said Regulation which was recorded, the third appellant herein has no jurisdiction to alter the same.

It has been contended by the learned counsel appearing on behalf of the appellants-Corporation that in terms of Regulation 19(3) of A.P. State Road Transport Corporation Service Regulations, if there is a self certification which shows higher age than the age assessed by the Medical Officer, the higher age has to be taken as the age declared by the workman which is final and therefore the date of birth as declared by the proceedings of the 3rd appellant

herein as 01.01.1940 was based on a self certification of the workman. Therefore, it is contended that the impugned order passed by the learned single Judge is liable to be dismissed.

The learned counsel for the workman contended that the corporation having subjected the workman to the medical examination for assessment of age in the year 1976 and assessed it as 11.11.1951, it cannot alter the same without issuing any notice to the workman, that too after a lapse of more than 17 years without assigning any reasons. Therefore, it is contended that the impugned order passed by the learned single Judge needs no interference by this Court.

The undisputed facts that emerge from the record are that as the workman was uneducated at the time of his appointment as mechanic, he was subjected to undergo medical examination for the purpose of fixing his age and accordingly, the Medical Officer of the Corporation after examination, certified that the workman is aged 25 years as on 11.11.1976. Basing on the said certification of the medical officer, the date of birth of the workman was fixed as 11.11.1951 and the same was recorded in the service register and other records of the workman. The date of birth of the workman assessed by the corporation as 01.01.1940 remained without any basis. The documentary evidence available with the corporation to prove the date of birth of the workman is the service register of the workman in which the date of birth of the workman was entered as 11.11.1951, as certified by the Medical Officer of the Corporation itself. Therefore, the proceedings of the corporation dated 22.07.1997 are illegal and without jurisdiction.

Under the above circumstances, while upholding the view taken by the learned single Judge, we modify the order of the learned single judge to the effect that the workman shall be reinstated into service with effect from 01.08.2005. But, however, we make it clear that the workman is not entitled to any back wages during which

period he was out of service, but the said period shall be taken into account for the purpose of pension and gratuity and his pay shall be fixed as on the date the workman was made to retire.

With the above observations, the Writ Appeal is disposed of.
There shall be no order as to costs.

Smt.T.Meenakumari,J

P.Lakshmana Reddy,J

Dated:30.06.2005,

CCM

To:

- 1 The Managing Director, APSRTC
Mushirabad Hyderabad.
- 2 The Regional Manager APSRTC
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- 3 The Depot Manager, APSRTC
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